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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined seventh and eighth periodic reports of Spain

Addendum

Information provided by Spain in follow-up to the concluding observations*

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* The present document is being issued without formal editing.

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1. In paragraph 44 of the concluding observations of the Committee on the Elimination of Discrimination against Women on the seventh and eighth periodic reports of Spain, dated 29 July 2015, Spain was requested to provide in writing, within a period of two years (before 29 July 2017), detailed information on the measures taken to implement the recommendations contained in paragraphs 21 (a), (b) and (f), as well as paragraph 37 (c).

2. **21 (a) To revise its legislation on violence against women to include other forms of gender-based violence, such as violence by care providers, police violence and violence in public spaces, workplaces and schools.**

3. The Spanish legal framework covers the various forms of violence against women and has been amended in line with the high standards established by the international agreements signed by Spain, in particular the Convention on the Elimination of All Forms of Discrimination against Women.

4. In recent years, there has been significant legislative progress in the area of combating gender-based violence. In addition to Organic Act No. 1/2004 of 28 December 2004 on comprehensive protection measures against gender-based violence, which addresses gender-based violence in a comprehensive manner by encompassing the preventive, educational, social and care dimensions as well as the criminal and civil legal treatment required by such forms of assault, legislative reforms have been carried out that address violence against women from the perspective of both criminal prosecution and improving protection and assistance to victims.

5. Following its reform by Organic Act No. 1/2015 of 30 March 2015, the Criminal Code now recognizes the various forms of violence against women, including forced marriage and new criminal offences relating to gender-based violence, including harassment, stalking and cyberbullying (unsolicited sexting). It should be noted that the reforms enacted through Organic Act No. 5/2010 of 22 June 2010 also introduced significant new elements in this area: the penalties for committing sexual offences were increased and new provisions were introduced to cover human trafficking. The Committee's recommendations have continued to drive the reform of Spanish criminal legislation, and the national instruments have been strengthened in order to reduce and ultimately eliminate gender-based violence. Thus, in the preamble to the Organic Act No. 1/2015, it is noted that: "(...) Likewise, the United Nations Convention on the Elimination of All Forms of Discrimination against Women, ratified by Spain, establishes in article 16 that "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent." (...)".

6. Women who are victims of domestic violence can benefit from the protection order and the comprehensive protection status that the order provides, in accordance with article 544 ter of the Spanish Criminal Procedure Act. Furthermore, progress has been made in the protection of victims with the adoption of Act No. 4/2015 of 27 April 2015 on the status of victims of crime, which provides for a series of measures to strengthen the protection of victims of violence against women.

7. Additionally, concerning the fight against trafficking for purposes of sexual exploitation, the 2015-2018 comprehensive plan to combat trafficking in women and girls for purposes of sexual exploitation was adopted in 2015 and brings together key actors in the fight against trafficking through a multidisciplinary approach.

8. On 15 November 2016, the Congress of Deputies unanimously adopted a non-binding proposal urging the Government to promote the signing of a State agreement on gender-based violence, in order to continue promoting policies for the eradication of violence against women as part of a genuine State policy. In addition, the proposal sought to expand the preventive, procedural, punitive and protective provisions of Organic Act No. 1/2004 of 28 December 2004 on comprehensive protection measures against gender-based violence, as well as to strengthen the rest of the legal system with a view to covering all forms of violence against women, as required by General recommendation No. 19 of the Committee on the Elimination of Discrimination against Women and by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which Spain has ratified. These issues have been the subject of negotiations in a subcommittee of the Congress of Deputies established for this purpose, as well as in the Senate, where an educational presentation on the concept of a State agreement against gender-based violence was given. During the subcommittee's constitutive session on 1 February 2017, various experts in the field made presentations. One of its areas of work is aligning national legislation with the Istanbul Convention and the recommendations of the Committee on the Elimination of Discrimination against Women. The subcommittee concluded its work on 24 July. The conclusions adopted by consensus will be sent to the Equality Committee of the Congress of Deputies.

9. In recent years, several important measures have been adopted in the justice system:

- Establishment of courts to deal with violence against women.
- Creation of the Observatory for Domestic and Gender-based Violence, composed of the General Council of the Judiciary, the Ministry of Justice, the Ministry of Health, Social Services and Equality, the Office of the Public Prosecutor, the autonomous communities with transferred legal powers and the General Council of Spanish Lawyers.
- Training in equality and gender-based violence for judges, magistrates, prosecutors, court clerks, security forces and forensic doctors.
- Development of judicial measures for the protection and security of victims that may be used in both civil and criminal proceedings.
- Establishment of the posts of divisional prosecutor for violence against women and deputy prosecutors with competence in this area in certain prosecutor's offices.
- Establishment of units for comprehensive forensic assessment and publication of a guide and manual on the comprehensive forensic assessment of gender-based and domestic violence.
- Amendment to Act No. 1/1996 of 10 January 1996 on free legal aid, so that victims of gender-based violence will not have to first prove a lack of resources when requesting free specialized legal defence.

10. With regard to legislation in the area of education, the following should be noted:

- The Organic Act on Education as amended in 2013, which forms the basis of all education policies in force, establishes that the objective of education is to provide training in respect of fundamental rights, effective equality of opportunity between men and women, and recognition of sexual and emotional diversity, as well as the critical appraisal of inequalities, with a view to overcoming sexist behaviour.

- The 2013 Organic Act on the Improvement of Educational Quality supplements the basic curriculum with units on the prevention and peaceful resolution of conflicts in all areas of personal, family and social life, and on the values that underpin democracy and human rights, which must encompass the prevention of gender-based violence.
- Some autonomous communities have developed their own plans on gender equality in education.
- In 2016, the Ministry of Education, Culture and Sport launched a strategic plan on coexistence in schools with components covering, inter alia, the preventive socialization of gender-based violence; early childhood violence prevention efforts, and careful scrutiny of the use of information and communications technologies.
- A toll-free hotline has been established for students, parents and legal guardians, teachers, staff and management of educational institutions, and, more broadly, for anyone who becomes aware of cases of ill treatment or harassment in a school context, both within and outside educational establishments.

11. **21 (b) To provide mandatory training for judges, prosecutors, police officers and other law enforcement officials on the Convention and the Optional Protocol and on the strict application of criminal law provisions on violence against women and on gender-sensitive procedures for interviewing and treating women who are victims of violence.**

I. Training of members of the judicial profession

12. The Judicial Training School, established under the General Council of the Judiciary, was envisioned as a centre for the selection and training of judges and magistrates; it provides preparation for members of the judiciary, as well as those who ultimately wish to join their ranks. For judges and magistrates in Spain, the initial training is mandatory. Continuing education is highly recommended and is assessed as grounds for promotion.

1. Initial training curriculum

Initial training curriculum for the sixty-seventh class of the legal profession: 2016-2017 course. Includes module 10 on gender-based violence and domestic violence. The victim statute

13. A special activity is organized, in coordination with the Observatory for Domestic and Gender-based Violence, which aims to raise awareness of the cycle of violence in the family and the social dimension of the problem before addressing not only the care response of public administrations but also the legal instruments available to the courts and the specific problems their application entails for judges and magistrates, with an analysis of the criminal offences: the concept of habitual violence and psychological violence, as well as the functioning of the courts for violence against women, their scope of competence and relations with the examining court.

Initial training curriculum for the sixty-eighth class of the legal profession: 2017-2018 course

14. This curriculum continues to emphasize the problem of gender-based violence in today's society. The efforts of the General Council of the Judiciary in this area, the new protection given to victims in criminal proceedings and the adoption on 13 October 2016 of a new practical guide to Organic Act No. 1/2004 of

28 December 2004 on comprehensive protection measures against gender-based violence, require a deep, comprehensive and specialized treatment of this subject matter. Module 9 is part of the ordinary curriculum related to criminal law and criminal procedural law, and includes:

- Crimes related to violence against women. Outline of criminal offences, the case law interpreting them and the most common practical issues. Of particular importance is the study and analysis of the practical guide to Organic Act No. 1/2004, of 28 December 2004 on comprehensive protection measures against gender-based violence.
- Protection order. Regulated in article 544 ter of the Criminal Procedure Act, this is one of the most important instruments for the protection of victims as it encompasses not only criminal but also civil and social measures, thus providing a comprehensive response to their particularly vulnerable situations.
- Enforcement: issues in the area of gender-based violence. Proceedings subsequent to the delivery of a final conviction are analysed. Special attention is paid to the forms of suspension regulated in article 80 of the Penal Code, and to disqualifications regulated in article 57.

15. A special activity on gender-based violence is also organized, with content similar to that in the curriculum mentioned above, that pays particular attention to minors who are victims of gender-based violence. That activity is carried out in coordination with the Observatory for Domestic and Gender-based Violence.

2. State continuing education plan

16. Attendance at training activities prior to participation in competitions for transfers to occupy certain judicial bodies is mandatory, in accordance with article 329, 3 *bis*, of Organic Act No. 6/1985 of 1 July 1985 on the judiciary.

II. Training of members of the prosecution service

1. Selective courses (initial training)

17. The Centre for Legal Studies provides selective courses that are mandatory for access to the prosecution service. The curricula cover the following contents related to the fight against gender-based violence:

- Internships in offices of gender-based violence prosecutors.
- During the theory and practice phase of the selective course:
  - Internships in the Madrid office of the special gender-based violence prosecutor.
  - Internships in courts including gender-based violence activities.
  - Talk by the prosecutor for gender-based violence.
  - Internship in summary proceedings related to gender-based violence.

2. Continuing education

18. Ongoing training is provided for members of the prosecution service, counsellors of the administration of justice, State attorneys and forensic medical examiners and doctors of the National Institute of Toxicology and Forensic Sciences. In general this continuing education depends on the availability of Centre for Legal Studies funds in each fiscal year.

The continuing education curricula for the prosecution service include the following activities:

- Study days for special prosecutors for equal treatment and against discrimination (mandatory).
- Study days for special prosecutors for violence against women (mandatory).
- International activities organized by the Academy of European Law on gender equality.

19. In addition, the director of the Centre for Legal Studies participates in the annual congresses of the Observatory for Domestic and Gender-based Violence.

Judicial police specialization courses for members of the national police force and the Civil Guard.

20. In 2016, 12 courses on specialization in judicial police functions were conducted. They are mandatory for those carrying out these functions and are aimed at the State security forces and agencies (Civil Guard and national police force). Since then, 880 officers have taken part. These courses include a lecture on the legal aspects of domestic violence (gender, minors and older persons).

21. Between 2015 and 2017, 36 judicial police specialization courses were held. In the period from 2014 to 2016 there was an increase in both the number of hours spent in training on gender-based violence and the number of students attending the courses.

22. **21 (f) To collect statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between the victim and the perpetrator.**

23. The variables mentioned in the Committee's report are computed in the crime statistics system; information is available by type of violence (domestic and sexual), as well as by sex, nationality, age and relationship between the victim and the perpetrator. These data have been collected since 2000 and are released to the public on an annual basis in the statistical yearbooks of the Ministry of the Interior. The data are collected in the questionnaires requested by such international and European bodies as the United Nations Office on Drugs and Crime and Eurostat.

24. In addition, the National Statistics Institute produces statistics on domestic and gender-based violence on the basis of data from the Ministry of Justice. The statistics of the General Council of the Judiciary include quarterly and annual reports prepared on the basis of the data collected in the sections on domestic violence in the quarterly statistical bulletins of examining courts, first instance and examining courts, criminal courts, children's courts and provincial courts, and provide information on both the victim and the person reported, disaggregated by sex, age, place of birth and relationship between victim and the perpetrator.

25. The General Directorate on Gender-based Violence is responsible for gathering data on assistance to women prostitutes and victims of trafficking and sexual exploitation from the organizations that care for them, as well as the statistical information collected by the Ministry of the Interior, the Department of Immigration and Emigration and the Attorney General's Office. This information has been contained in a specific chapter of the annual statistical bulletin since 2016.

26. **37 (c) To provide adequate treatment for women and girl asylum seekers with specific needs and adopt a gender perspective when developing programmes for assistance.**

27. Spain is working on the implementation of the recommendations made by the Committee, including the application by the Asylum and Refugee Office and other responsible agencies of the intersectional, complementary and cumulative protection approach of the Convention on the Elimination of All Forms of Discrimination against Women. It is also working on the implementation of the Convention relating to the Status of Refugees (Geneva, 28 July 1951) and its 1967 Protocol; the guidelines of the United Nations High Commissioner for Refugees on integrated strategies — medical, legal, social and security — against gender-based violence or the breakdown by gender of the Asylum and Refugee Office's statistical data on applications for international protection by time, country of origin and acknowledgement rates, to sensitize, develop and evaluate the policies (point 39 of general recommendation 32).

28. Articles 3 and 7 of Act No. 12/2009 regulating the right to asylum and subsidiary protection recognize refugee status on the basis of gender. Similarly, article 17.5 of the Act states that the Administration shall take the necessary measures to ensure that, where necessary, in their interviews applicants are treated differently based on their sex or other circumstances provided for in article 46. This procedure should be duly reflected in the administrative file.

29. The Interministerial Committee on Asylum Seekers and Refugees, a collegiate body attached to the Ministry of the Interior and composed of one representative from each of the departments responsible for foreign policy, the interior, justice, immigration, reception of asylum seekers and equality as well as a representative of the Office of the United Nations High Commissioner for Refugees, reviews the draft versions of the decisions that finalize the process of applications for international protection studied by the Asylum and Refugee Office and that are escalated to the Ministry of the Interior for approval. Article 23.1 of Act No. 12/2009 provides that the Asylum and Refugee Office will be responsible for the processing of applications for international protection.

30. For its part, the General Directorate on Gender-based Violence examines cases of allegations of any of the forms of violence against women that constitute a violation of human rights, with a view to a possible granting of refugee status or subsidiary protection on the basis of gender in accordance with the provisions of the Asylum Act.

31. In the area of combating trafficking in women and girls for purposes of sexual exploitation, the 2015-2018 comprehensive plan sets out a specific goal concerning the victims of trafficking who are seeking international protection. Measures to ensure care include the guarantee of the provision of adequate information on their right to seek international protection, in conformity with the protection afforded by the law on foreign nationals, and their access to care resources.

32. In order to implement plans for improvements in processing, taking into account the gender perspective, the asylum database is used, containing the series and performance of data relating to international protection in Spain in recent years. It reflects the number of applications registered during the year — disaggregated by sex, country of origin, place of submission, autonomous community and province where the request is formalized — with changes in requests for the last decade and data relating to decisions made in 2015.

33. With regard to the gender statistics of persons who were granted international protection between 2011 and 2014, the data are published in the statistical yearbooks of the Ministry of the Interior.

34. Order No. ESS/1423/2012, of 29 June 2012, establishing the regulatory bases for the granting of subsidies to integrate immigrants, asylum seekers and the

beneficiaries of international protection, statelessness and temporary protection, most recently amended on 11 February 2017, in its article 9.3 subparagraph (b) establishes programming with a gender perspective as the objective criterion for the evaluation of the programmes submitted. The criteria for positively assessing applicants indicated in article 9.1 paragraph (g) include that the criteria for staff recruitment contribute to the workforce integration of specific social groups for whom there are special measures for employment promotion, including women.

35. In May 2017 the Subdirectorate General for the Integration of Immigrants published a new version of the handbook on the management of the system for the reception and integration of asylum seekers and beneficiaries of international protection, which aims to facilitate the management of services, activities and projects to meet the needs of this group, and it establishes gender equality and equal treatment as cross-cutting themes. The description of persons who may find themselves in vulnerable situations or who are in specific reception situations include the profiles contained in Act No. 12/2009 and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection. This group includes women and girl asylum seekers with specific needs. The new handbook has introduced improvements in procedures to detect particular reception needs, including the requirement to conduct regular evaluations to identify these needs when they arise after access to the reception system and to respond when they arise.

36. The protocol of the Subdirectorate General for the Integration of Immigrants for detection and action in the event of cases of human trafficking for purposes of sexual exploitation seeks to establish guidelines for detection and intervention in possible cases of trafficking that may arise in the Social Work Unit, the Asylum and Refugee Office, the reception centres for refugees or the temporary migrant reception centres, under the Department of Immigration and Emigration of the Ministry of Employment and Social Security, as well as in migration centres and non-governmental organization care agencies that conduct programmes subsidized by the Directorate General of Migration.

37. The protocol focuses on victims of trafficking for purposes of sexual exploitation, without prejudice to its similar implementation for victims of trafficking for purposes of forced labour or services, slavery or practices similar to slavery, servitude or begging or the removal of their organs.

38. In addition, work is under way to draft a protocol to prevent and respond to sexual and gender-based harassment and violence for immigration centres. The purpose of this protocol is to establish guidelines for prevention and action against gender-based violence inflicted on women beneficiaries of the public network of immigration centres by their current or former spouses or by people who are or have been connected to them by similar emotional relationships, with or without cohabitation. The protocol will also promote the establishment of measures to warn, educate, identify, protect and assist victims of sexual harassment and gender-based violence, their minor children and minors under their guardianship or care and custody. The protocol is currently being drafted and a pilot experiment in the Vallecas immigration centre has begun.